

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

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|------------------------------------|---|-------------------------------------|
| Bryantavious K. Murray, |) | Civil Action No.: 8:18-cv-01926-RBH |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| Greenwood County Sheriff's Office, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff, a state prisoner proceeding pro se, originally filed this action in state court asserting claims under state and federal law, and Defendant subsequently removed the case to this Court and filed a motion to dismiss Plaintiff's federal claims brought under 42 U.S.C. § 1983. *See* ECF Nos. 1 & 15. This matter is now before the Court for review of the Report and Recommendation ("R & R") of United States Magistrate Judge Shiva V. Hodges, who recommends granting Defendant's motion to dismiss Plaintiff's federal claims without prejudice to him filing an amended complaint within fourteen days of the date of this Order.¹ *See* ECF No. 20.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

¹ The Magistrate Judge issued the R & R in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02 (D.S.C.).

Neither party has filed objections to the R & R, and the time for doing so has expired.² In the absence of objections to the R & R, the Court is not required to give any explanation for adopting the Magistrate Judge's recommendations. *See Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’” (quoting Fed. R. Civ. P. 72 advisory committee's note)).

After a thorough review of the record in this case, the Court finds no clear error and therefore adopts the Magistrate Judge's R & R [ECF No. 20]. Accordingly, the Court **GRANTS** Defendant's motion to dismiss [ECF No. 15] as to Plaintiff's federal claims without prejudice to him filing an amended complaint (that is clearly legible) within fourteen days of the date of this Order.

If Plaintiff fails to file an amended complaint by November 13, 2018, the Court will remand his state law claims³ to state court pursuant to 28 U.S.C. § 1367(c)(3).⁴

IT IS SO ORDERED.

Florence, South Carolina
October 29, 2018

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

² Defendant's objections were due by October 3, 2018, and Plaintiff's objections were due by October 9, 2018. *See* ECF Nos. 20 & 21.

³ As the Magistrate Judge notes, Plaintiff cites the South Carolina Tort Claims Act in his complaint. *See* R & R at pp. 5–6 n. 4 (citing ECF No. 1-1 at pp. 5, 16–17).

⁴ The Court will rule on Defendant's motion for an extension of time to file dispositive motions [ECF No. 23] if Plaintiff files an amended complaint. If Plaintiff fails to do so, Defendant's motion will be moot.